

REMARKS/ARGUMENTS

The examiner is thanked for the performance of a thorough search. By this amendment, Claims 16, 18, and 40 have been amended. Claims 1, 4, 17, 19-32, 37-39, and 41 have been cancelled, and Claims 42-47 have been added. Hence, Claims 16, 18, 40, and 42-47 are pending in the application. The amendments to the claims as indicated herein do not add any new matter to this application.

Each issue raised in the Office Action mailed May 15, 2009 is addressed hereinafter.

I. ISSUES NOT RELATING TO CITED ART

A. RESTRICTIONS

Claims 1, 38, and 39 have been withdrawn by the Office Action. Thus, Claims 1, 38, and 39 have been cancelled.

B. 35 U.S.C. §112, CLAIMS 32 AND 37

Claims 32 and 37 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 32 and 37 have been cancelled, and thus the rejection with respect to these claims is considered moot.

C. CLAIMS 42-47

Claims 42-44 are apparatus counterparts to Claims 16, 18, and 41, respectively. Furthermore, Claims 45-47 are computer-readable storage medium counterparts to Claims 16, 18, and 41, respectively. Therefore, these new claims are supported in the specification for at least the same reasons as Claims 16, 18, and 41.

II. ISSUES RELATING TO CITED ART—CLAIMS 16, 18, AND 40-41

Claims 16, 18, and 40-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,473,903 to Balakrishnan, et al. (“Balakrishnan”) in view of U.S. Patent No. 6,072,982 to Haddad, et al. (“Haddad”). The rejection is respectfully traversed.

Claim 16 recites:

A method for enhancing viewership of television advertisements, comprising:
 receiving, by a digital video recorder (DVR), a program segment containing a commercial break;
 playing the program segment to a viewer;
 detecting, by the DVR, an in-band signal associated with the program segment, the in-band signal containing information about each of the commercials in the commercial break;
 in response to detecting the in-band signal;
 creating, by the DVR, a menu based on the information contained in the in-band signal about each of the commercials in the commercial break, and
 displaying, by the DVR, the menu;
while displaying the menu, pausing playback of the program segment by the DVR and the user is allowed to select between skipping past the menu to continue viewing the program segment and selecting a particular item in the menu.

At least the above-bolded features of Claim 16 are not taught or suggested by Balakrishnan and Haddad, even when taken in combination under 35 U.S.C. § 103(a).

The Office Action cites Balakrishnan column 3, line 66 – column 4, line 9 as allegedly teaching “wherein the viewer is allowed to select a particular item in the menu”. (See Office Action, page 6, line 1.) However, the cited portion of Balakrishnan fails to teach or suggest “while displaying the menu, pausing playback of the program segment by the DVR and the user is allowed to select between skipping past the menu to continue viewing the program segment and selecting a particular item in the menu” recited by Claim 16, as amended.

Balakrishnan describes “implementing an interactive broadcast program which includes a transmitter for transmitting a multiplexed data stream which includes an interactive main program”. (See Balakrishnan Abstract.) The cited portion of Balakrishnan is as follows:

The viewer can suitably use a remote control unit (RCU) or other user control device (e.g., programmable keypad) to select the commercial he/she desires to view, e.g., by moving a cursor (“pointing”) and clicking on the multimedia hotspot that represents the commercial he/she desires to view, or by entering a program number corresponding to the position of the multimedia hotspot that represents the commercial he/she desires to view. The application program could be written to force the display of a default commercial in the event the viewer does not select any commercial within a predetermined default period of time (e.g., 15-30 seconds).

Thus, Balakrishnan describes a user either selecting a commercial that the user desires to view or “forc[ing] the display of a default commercial **in the event the viewer does not select any commercial** within a predetermined default period of time (e.g., 15-30 seconds).”

Balakrishnan does not disclose “the user is allowed to select between skipping past the menu to continue viewing the program segment and selecting a particular item in the menu”, as recited by Claim 16. No such ability to “select between skipping past the menu to continue viewing the program segment and selecting a particular item in the menu” is shown at all in Balakrishnan.

Merely allowing a user to select a commercial from a menu, as described in Balakrishnan, is insufficient to show “while displaying the menu, pausing playback of the program segment by the DVR and **the user is allowed to select between** skipping past the menu to continue viewing the program segment and selecting a particular item in the menu” recited by Claim 16. This deficiency in Balakrishnan is because the user is forced to watch a commercial and is not allowed the option to skip past the menu.

Therefore, Balakrishnan fails to teach or suggest at least the above-cited portion of Claim 16. Further, Haddad fails to remedy the deficiencies of Balakrishnan. Thus, Claim 16 is not taught or suggested by Balakrishnan and Haddad, even when taken in combination under 35 U.S.C. § 103(a). Reconsideration is respectfully requested.

Claims 18 and 40 each depend from Claim 16, and are patentable over Balakrishnan and Haddad for at least the same reasons as those discussed in connection with Claim 16. As is discussed above, Claim 16 recites features that Balakrishnan and Haddad do not disclose. Therefore, Claims 18 and 20, which inherit these features, are patentable over Balakrishnan and Haddad, when taken in combination under 35 U.S.C. § 103(a). Claim 41 is cancelled, and therefore the rejection with respect to this claim is considered moot. Reconsideration is respectfully requested.

III. CONCLUSIONS & MISCELLANEOUS

For the reasons set forth above, all of the pending claims are now in condition for allowance. The Examiner is respectfully requested to contact the undersigned by telephone relating to any issue that would advance examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, please charge our deposit account for the petition for extension of time fee. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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